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a position to uphold or argue the constitutionality of the law?

SENATOR MURPHY: Yes sir, I think that would probably be proper Senator Chambers. All of our laws that become laws are...do rest in the office of the Secretary of State. He is the ultimate disposal of bills that we do pass. I think that logically it is a suitable choice.

SENATOR CHAMBERS: Well now if the Secretary of State happens to feel that the act is unconstitutional also, then he still must employ counsel to argue against the position that he takes which might cause him to hire a lawyer that feels as he feels.

SENATOR MURPHY: This is true Senator Chambers. I think that this is true many times where we have a court designated attorney. The attorney does not necessarily have to agree with the concept, he must defend to his utmost his client which in this case would be the state.

SENATOR CHAMBERS: Do you think this that you handed out to us is going to accomplish what you have in mind?

SENATOR MURPHY: Not nearly with the firmness that I would have liked to have had Senator Chambers. But, I do believe at least it indicates that we are willing to take the first step and the child who does not take a first step will never walk. I will take this first step even though it would be at the designation of the Attorney General.

SENATOR CHAMBERS: Thank you, Senator Murphy. Although if the child is a bird he need not take the first step he can fly and then walk. But, what I am puzzled about here is the exact meaning and significance of the amendment and had I known that this was going to be done today I would have been better prepared. So what I have to say right now is that it is going to take me a little while to study this and I can't support this at this time because it is confusion to me at the moment. But, if I look through it and see that it has any possibilities, then what I intend to do in the way of a possibility is to amend this bill so that it will go back to the allowance of a citizen to bring a mandamus action with the state picking up the tab. So, I'm giving Senator Murphy notice of what I am intending to do.

SPEAKER LUEDTKE: Chair recognizes Senator Bereuter.

SENATOR BEREUTER: (no response).

SPEAKER LUEDTKE: Chair recognizes Senator Duis.

SENATOR DUIS: Mr. President, I have a question of Senator Murphy. Senator Murphy, I am concerned here in as much as the...in your amendment you are making the head of the department personally liable for the cost of the case in case he loses. I maybe am misunderstanding what you have here but I can not determine that he should be made responsible for the cost of his defense when we are the ones that enacted the legislation.

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